

**REMARKS**

Applicants have amended claims 1, and 3-5. Claims 1 and 3-14 remain pending. In light of the amendments, above, and the comments, below, Applicants respectfully request entry of this amendment, reconsideration and reexamination of this application and the timely allowance of the pending claims.

In the Office Action, the claims are objected to for allegedly including reference characters that are not enclosed within parentheses, claims 1, 3, and 14 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,685,981 to Jones, and claims 1, 3 and 12-14 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 4,078,686 to Karesh in view of Jones. Applicants are appreciative of the indication that claims 4-11 would be allowable if rewritten into independent form.

Applicants appreciate the consideration by the Examiner to prepare and propose an Examiner's Amendment to place the application in condition for allowance. The Examiner's Amendment was proposed during a telephonic Interview initiated by the Examiner and conducted on April 30, 2003. The proposed Examiner's Amendment would cancel claims 1 and 3 would and would rewrite claim 4 into independent form. Applicants respectfully declined the proposed Examiner's Amendment.

Applicants have amended claim 1 in the spirit of the proposed Examiner's Amendment in that claim 1 has been amended to recite a combination of features that includes the feature of "elastic bands" that was formerly introduced in dependent claim 4. Specifically, claim 1 has been amended to recite a combination of features that includes a "closure mechanism that is comprised of elastically deformable elastic bands which intersect each other and surround a closure member such that when the elastically deformable elastic bands are in a state of rest under no external stress the closure member is closed." Support for this combination of features is found in Applicants' specification and drawings as originally filed, for example, at page 6, lines 14-36 and Figs. 2-3.

Jones shows in Figs. 5-6 and describes in column 3, lines 44-47 and 54-56, that "[i]t is, therefore, desirable to further tension the wires in order that they will be held straight and against substantial flexing relative to one another...by forcing member 14 to move in perpendicular relation to the plane of strands 9." Karesh shows in Figs. 1 and 2 and describes in column 1,

lines 54-55, that a “screw cap 26 (metal or plastic) is provided at each end of the container.” Therefore, neither Jones nor Karesh, alone or in combination, shows, describes or suggests the claimed feature of a “closure mechanism that is comprised of elastically deformable elastic bands which intersect each other and surround a closure member such that when the elastically deformable elastic bands are in a state of rest under no external stress the closure member is closed.” Applicants respectfully request that the rejections be withdrawn and claim 1 be indicated as allowable.

Claims 3 and 4 have been amended to be consistent with the amendment to claim 1. Therefore, Applicants do not consider the amendments to claims 3 and 4 to be narrowing amendments for the purposes of patentability and do not intend to surrender any subject matter.

Claims 3-14 depend from allowable claim 1 and recite additional features which further distinguish over the art of record. For at least these reasons claims 3-14 are allowable over the art of record.

Applicants have deleted the reference characters “D” and “C” from claims 4 and 5. Accordingly, Applicants respectfully request that the objection to the claims be withdrawn.


**CONCLUSION**

It is respectfully submitted that for at least the above noted reasons, all of the pending claims in the above-identified application are now in condition for allowance. If after consideration of this amendment, the Examiner believes that any outstanding issues remain, she is invited to contact applicants' attorney at the telephone number below to expedite prosecution.

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. **This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).**

Respectfully submitted,

Date: August 18, 2003

  
\_\_\_\_\_  
William G. Battista, Jr.  
Reg. No. 37,525

**Customer No. 009629**  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Tel: (202) 739-3000  
Fax: (202) 739-3001